

REMARKS/ARGUMENTS

The Office Action of May 26, 2009 has been carefully reviewed and these remarks are responsive thereto. Claims 1, 14 and 29 have been amended. No new matter has been added. Claims 1, 3-14, 17-23 and 25-29 remain pending upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 1, 8-9, 14-15, 23-24 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. publication no. 2002/0085540 A1 to Hyvarinen et al. ("Hyvarinen") in view of U.S. publication no. 2003/0126263 A1 to Fenton et al. ("Fenton"). Applicants traverse.

Amended claim 1 recites, *inter alia*,

wherein the first telecommunication system is not configured to satisfy the initial QoS levels of the first set of telecommunication services, wherein the second telecommunication system is configured to satisfy the initial QoS levels of the first set of telecommunication services, and wherein the first telecommunication system is configured to transmit more bits per second as compared to the second telecommunication system.

Such features are not disclosed in Hyvarinen and Fenton, either alone or in combination. For example, Fenton at best describes two networks, 2G and 3G, where the 3G network provides MMS services since the 2G network is unable to support MMS services. However, even assuming that a 2G network constitutes a first telecommunication system (which is not configured to satisfy the initial QoS levels of the MMS services) and a 3G network constitutes a second telecommunication system (which is configured to satisfy the initial QoS levels of the MMS services), Fenton still fails to teach or suggest wherein the first telecommunication system (2G network) is configured to transmit *more* bits per second as compared to the second telecommunication system (3G network). Indeed, it is well known to one of ordinary skill that a 3G network transmits more bits per second than previous generation networks such as a 2G network. Namely, one of the primary benefits of a 3G network is increased transmission capability. As such, Fenton fails to teach or suggest the above feature of claim 1.

Hyvarinen fails to cure the above-noted deficiency of Fenton. Therefore, even assuming but not conceding that a combination of Hyvarinen and Fenton would have been appropriate,

such a combination would have failed to result in each and every feature of claim 1. Therefore, claim 1 is allowable.

Claims 14 and 29 each recite features similar to those discussed above with respect to claim 1 and are allowable for at least similar reasons.

Claims 8-9, 15 and 23-24 depend on claims 1 and 14 and are at least allowable for the same reasons as their base claims, and in further view of the advantageous features recited therein.

Claims 3-6 and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hyvarinen and Fenton and further in view of U.S. patent no. 6,044,091 to “Kim”. Applicants traverse.

Claims 3-6 and 17-20 depend on claims 1 and 14, respectively. Kim fails to cure the deficiencies of Hyvarinen and Fenton with respect to claims 1 and 14. Therefore, even assuming but not conceding that a combination of Hyvarinen, Fenton and Kim would have been appropriate, such a combination would have failed to result in each and every feature of claims 3-6 and 17-20 for at least the above reasons, and in further view of the advantageous features recited therein.

Claims 7 and 21-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hyvarinen, Fenton and Kim and further in view of U.S. publication no. 2002/0160757 A1 to Shavit et al. (“Shavit”). Applicants traverse.

Claims 7 and 21-22 depend on claims 1 and 14, respectively. Shavit fails to cure the deficiencies of Hyvarinen, Fenton and Kim with respect to claims 1 and 14. Therefore, even assuming but not conceding that a combination of Hyvarinen, Fenton, Kim and Shavit would have been appropriate, such a combination would have failed to result in each and every feature of claims 7 and 21-22 for at least the above reasons, and in further view of the advantageous features recited therein.

Claims 10-13 and 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hyvarinen and Fenton and further in view of U.S. patent no. 7,283,550 B2 to Duncan et al. (“Duncan”). Applicants traverse.

Claims 10-13 and 25-28 depend on claims 1 and 14, respectively. Duncan fails to cure the deficiencies of Hyvarinen and Fenton with respect to claims 1 and 14. Therefore, even assuming but not conceding that a combination of Hyvarinen, Fenton and Duncan would have been appropriate, such a combination would have failed to result in each and every feature of claims 10-13 and 25-28 for at least the above reasons, and in further view of the advantageous features recited therein.

CONCLUSION

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
BANNER & WITCOFF, LTD.

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By: /Gary D. Fedorochko/
Gary D. Fedorochko
Registration No. 35,509

1100 13th Street, N.W., Suite 1200
Washington, D.C. 20005-4051
Tel: (202) 824-3000
Fax: (202) 824-3001

GDF:lab